



*Rosebud Sioux Tribe*

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September 05, 2000

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Chairman Kennard  
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The Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Dear Mr. Chairman, Ladies and Gentleman:

The Rosebud Sioux Tribe of South Dakota finds the Common Carrier Bureau Order (CC Docket No. 96-45) contrary to our efforts to immediately, efficiently and economically improve telephone service on our reservation.

We hereby present you with a formal request for reconsideration of the Common Carrier Order explaining in greater detail why this order disregards our tribal sovereignty and violates the trust responsibility.

Respectfully Yours,

*Gerhie Night Pipe* RST Sec.  
for William Kindle, Chairman  
Rosebud Sioux Tribe of South Dakota

cc: Senator Daschle  
Senator Johnson  
Senator Nighthorse Campbell  
Senator McCain  
Senator Burns  
Western Wireless Corp. Chairman John Stanton  
Common Carrier Bureau  
Wireless Bureau

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Before the  
 Federal Communications Commission  
 Washington, D.C. 20554

In the Matter of )  
 )  
 Federal-State Joint Board on Universal Service. )  
 Promoting Deployment and Subscribership in )  
 In Unserved and Underserved Areas, Including )  
 Tribal and Insular Areas )  
 )  
 Western Wireless Corporation, Crow Reservation )  
 In Montana )  
 )  
 Smith Bagley, Inc. )  
 )  
 Cheyenne River Sioux Tribe Telephone Authority )  
 )  
 Western Wireless Corporation, Wyoming )  
 )  
 Cellco Partnership d/b/a/ Bell Atlantic Mobile, Inc. )  
 )  
 Petitions for Designation as an Eligible )  
 Telecommunications Carrier and for Related )  
 Waivers to Provide Universal Service )

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 FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

CC Docket No. 96-45

Petition for Reconsideration  
 By  
 The Rosebud Sioux Tribe of South Dakota

The Rosebud Sioux Tribe of South Dakota hereby submits this Petition for Reconsideration of the Commission's *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, FCC 00-208, released on June 30, 2000 ("Twelfth Report and Order"). In the *Twelfth Report and Order*, the Commission adopted rules and policies for, among other things, considering a request by a carrier to be designated as an Eligible Telecommunications Carrier ("ETC") on tribal lands. The Rosebud Sioux Tribe respectfully requests that the Commission reconsider its decision not to assume jurisdiction outright over the designation of a carrier as an ETC on tribal lands. In concluding that "whether a carrier providing service on tribal lands is subject to the jurisdiction of a state commission is a complicated and intensely fact-specific legal inquiry informed by principles of tribal sovereignty and requiring the interpretation of treaties, and federal Indian law and state law," the Commission fails to recognize its federal trust responsibility to the tribes and that it is the Commission's responsibility to designate a carrier seeking to serve only areas within a established reservation as an ETC.

When the Federal Communications Commission began it's inquiry into the reasons for the extremely low telephone penetration rates on American Indian reservations over two years ago, our reservation, the Rosebud Sioux, became very concerned with our low telephone penetration rate. We began exploring options for overcoming our own digital divide. Realizing this, I knew the importance of supporting all tribes as they each worked to overcome the "digital divide", throughout Indian Country. Like every good relationship, strong, effective, and reliable communication is a must. As Chairman of the Rosebud Sioux Tribe I write this letter to you, the Commission, concerned that the lack of 'proper communication' between tribes and the Federal Communications Commission, through it's recently adopted (June 8) Orders, has led to the breakdown of communication and trust you, the Commission, put into honoring our "federal/tribal trust relationship".

We strongly express that the Common Carrier Bureau Order No. 96-45, as worded, is a critical detriment to the sovereignty of Indian Country in pursuit of overcoming their 'digital divide'. We demand that this Order be reconsidered. This Order continues to defer to state governments' and as worded, places us, the Rosebud Sioux Tribe, in a uniquely prejudicial position because, the state of South Dakota has already denied Eligible Telecommunications Carrier ("ETC") status for wireless services and the access to Universal Service funding for developing such a system on our reservation. We remind this Commission that our tribe was neither consulted nor informed about the process (see attached letters). I make it clear, that strong, effective and reliable 'communication' is a must. As Chairman I believe this picture is clear to you, the Commission, on why this Order needs to be reconsidered by granting ETC status and Universal Service funding for wireless services for the people of the Crow Tribe.

Reconsidering this Order and respecting the sovereign request of the Crow Tribe to have affordable and reliable wireless services for their reservation is a 'clear signal' to the rest of Indian Country, including our reservation, that this Commission honors their "federal trust responsibility" and once again fosters the 'proper communication' to the full enjoyment of the "federal/tribal trust relationship". From here we will work together to overcome the 'digital divide' throughout Indian Country.

In sum, the Rosebud Sioux Tribe of South Dakota respectfully requests that the Commission reconsider its decision not to assume jurisdiction outright over the designation of a carrier that serves only a reservation as an ETC. Requiring a carrier to establish Commission jurisdiction through an exhaustive legal proceeding will have a chilling effect on any carrier seeking to provide service on reservations, ignores the Commission's federal trust responsibility, and takes away from the tribes their ability for self-determination.

Respectfully submitted,

  
for William Kindle, Chairman  
The Rosebud Sioux Tribe of South Dakota

Cc/ Chairman William Kennard  
Commissioner Susan Ness  
Commissioner Michael Powell  
Commissioner Harold Purchgott-Roth  
Commissioner Gloria Tristano